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Washington, D.C. Update

In September, the House returned from its traditional August recess and the Senate returned from a truncated recess due to hearings on the nomination of Judge Kavanaugh to the U.S. Supreme Court. There's no shortage of major unresolved legislative issues facing Congress, but many members have been more focused on what is shaping up to be a volatile midterm election. From the Farm Bill to Fiscal Year 2019 Appropriations, Congress appears poised to punt many major policy debates until November and allow members to return to their districts to campaign.

Farm Bill

The Chairs and Ranking Members of the House and Senate Agriculture Committees had hoped to bridge the significant gap between their respective chambers' Farm Bill proposals and find a compromise. The biggest stumbling block has been disagreements over spending levels and policy changes to the Food Stamp program, including Republican efforts to impose work requirements for program recipients. Negotiators have largely focused on reaching an agreement on overall Farm Bill spending levels before diving into policy disputes, including the possible inclusion of federal forest management reforms in the forestry title.

IN THIS ISSUE

- DC Update
- Collaborative Seeks Rehearing
- BLM FY18 Wrap-up
- Region 1 Salvage Sales
- ESA Regulation Comments
- Christine Dawe Takes New Position
- Member Profile: Freres Lumber
- Pacific Logging Congress
- AFRC Welcomes Law Clerk

House Natural Resources Committee Chairman Rob Bishop (R-UT), House Energy and Commerce Committee Chairman Greg Walden (R-OR), and dozens of other members of the House have urged Farm Bill conferees to include federal forest management reforms in the bill. On September 13, a group of 40 bipartisan House members sent a [letter](#) supporting federal forest management reforms in the Farm Bill, including Reps. Kurt Schrader (D-OR), Greg Walden, Cathy McMorris Rodgers (R-WA), Jaime Herrera Beutler (R-WA), and Doug LaMalfa (R-CA). The letter, which was sent under the auspices of the Congressional Western Caucus, followed a similar [Senate Western Caucus letter](#) by Senator Steve Daines (R-MT) and a dozen other members of the U.S. Senate.

Unfortunately, there has been little support for including federal forest management reforms from Democrats in Congress. In fact, 38 Democratic Senators [sent a letter](#) on August 23 opposed to the inclusion of “environmental riders” in the Farm Bill, including provisions in the forestry title. Over 100 House Democrats sent [a similar letter](#) on August 27.

In late July, AFRC worked with the Federal Forest Resource Coalition and other allies in writing a [letter](#) to the conference committee urging the inclusion of several critical forest management reforms in any final Farm Bill. Healthy Forests, Healthy Communities has also been running an active grassroots and digital advocacy [campaign](#) urging Congress to support forest management reforms.

Farm Bill programs technically expired on September 30, but most of the commodity programs won't be significantly affected until the end of the calendar year. Congress will have to tackle the issue again during a lame-duck session following the mid-term elections, which will determine control of the House and Senate.

Appropriations

With the end of the fiscal year and midterm elections looming, Congress has worked to pass Fiscal Year 2019 (FY19) appropriations measures and prevent a potential government shutdown. On September 21, President Trump signed a “minibus” appropriations bill containing the FY19 Energy-Water, Military Construction and Veterans Affairs, and Legislative Branch spending bills. This represents significant progress to enact full year appropriations measures before the end of the fiscal year. On September 18, the Senate voted 93-7 to pass another minibus that coupled a full year of funding for Defense (a Republican priority) and Labor, HHS, and Education programs (a Democrat priority) with a Continuing Resolution (CR) to fund other government programs through December 7.

Last week, President Trump called the minibus and CR package “ridiculous” and urged Republicans to “finally get tough.” While the President stopped short of threatening a veto, the comments raised the specter of another skirmish over funding of a border wall and fights over domestic spending levels, which increased significantly under the last Omnibus appropriations bill. However, President Trump or Congressional Republicans were reluctant to risk a government shutdown just weeks before the midterm election.

On September 26, the House passed the Defense/Labor-HHS minibus and CR package by a vote of 361-61. While negotiators came close to an agreement on the Interior Appropriations measure, the Forest Service and Interior Department will be funded with a Continuing Resolution until December 7. In addition to the six unfinished appropriations bills, Congress will also have to consider an emergency supplemental in response to recent hurricane damage and wildfire suppression costs when it returns.

Hearing: Wildfires and Air Quality. In the wake of another disastrous summer wildfire season, the House Energy and Commerce Environment Subcommittee held a hearing on September 13 entitled “*Air Quality Impacts of Wildfires: Mitigation and Management Strategies.*” The Energy and Commerce Committee is arguably the most powerful committee in Congress and is chaired by Rep. Greg Walden, who has a long track record of leadership on forestry issues.

The hearing featured several witnesses from the Pacific Northwest, including Oregon State Senator Herman Baertschiger, Montana State Forester and DNRC official Sonya Germann, and Mary Anderson of the Idaho Department of Environmental Quality (DEQ) – Air Quality Division. Also testifying were Tom Boggus, Texas State Forester and Director of the Texas A&M Forest Service, and Collin O’Mara President and CEO of the National Wildlife Federation.

In his opening statement, Chairman Walden noted that over 700,000 acres had burned in Oregon so far this year and that Medford, Oregon had experienced the worst run of unhealthy air quality since EPA began keeping records in 2000. Walden outlined some of the serious and deadly public health effects of wildfire smoke and how overstocked, unhealthy federal forests are fueling the worsening wildfire seasons and the many impacts to forests, communities, and people. Walden cited statistics from Oregon showing that 90 percent of the acres burned in 2017 were on Forest Service lands.

Oregon State Senator Baertschiger’s testimony focused on his 40-plus years of experience in wildland firefighting, concerns about the Forest Service’s approach to wildfire suppression, and the real life impacts of wildfires and smoke to local communities, including over \$50 million in lost tourism revenue for Oregon in 2017 alone. Montana State Forester Sonya Germann shared similar stories from Montana, which also experienced a devastating wildfire season in 2017, and efforts underway to use new tools like the Good Neighbor Authority to treat at-risk federal lands. Idaho DEQ’s Mary Anderson noted that Idaho’s 2017 fire season released an estimated 111,000 tons of direct fine particulate pollution into the air, which is about 25 times the amount of fine particulate pollution emitted by all the cars and trucks in Idaho in a year.

The National Wildlife Federation’s Collin O’Mara also testified about the serious environmental and public health effects of worsening fire seasons and the need for proactive management. Mr. O’Mara testified in support of additional legislative action to enhance the use of the 2014 Farm Bill authorities like the Insect and Disease Categorical Exclusion (CE) and Good Neighbor Authority (GNA) – a promising sign about the level of support that exists for restoring the health of federal forests. While there was ample agreement among the witnesses, some Committee Democrats chose to focus on larger policy debates about climate change and downplay active forest management strategies. Frank Palone (D-NJ), the full committee’s ranking Democrat, said “If this Congress wants to truly address the increase in extreme wildfires, we must act to slow the global warming that is driving changes in climate and weather patterns.”

While the Energy and Commerce Committee does not have jurisdiction over federal land management, under the leadership of Chairman Walden this is the second hearing in as many years focused on the air quality impacts of catastrophic wildfires.

Speaking of wildfires and smoke, Senator Ron Wyden (D-OR) recently introduced [legislation](#) to allow residents of areas with smoke-filled skies to apply to the Federal Emergency Management Agency (FEMA) for assistance with temporary lodging in areas with better air quality. */Heath Heikkila*

Collaborative Group Pushes Ninth Circuit to Take Another Look

The Payette Forest Coalition (PFC) and Adams County, Idaho, represented by AFRC attorneys, have joined with the federal government in seeking rehearing by the Ninth Circuit of its [ruling](#) overturning the Lost Creek-Boulder Creek collaborative restoration project. (See [August Newsletter](#)). The petition has support from the PFC's full membership of conservation groups, recreation interests, local governments, and timber representatives.

Under appeals court rules, a petition for rehearing is appropriate if there are points of law or facts that the court has overlooked or misapprehended. If a petition for rehearing is granted, the court can amend its ruling, have additional oral argument, or take any other appropriate action.

The PFC's petition argues that the court failed to acknowledge the economic or environmental benefits this project will bring to Southwest Idaho—benefits that will result from the full spectrum of management activities including logging in previously managed areas. Because of the ecological design of the project, it brought together former adversaries who recognize the landscape is out of balance. This project comes from a changing legal climate, new science, deteriorating ecological conditions and hard work on all sides. As the PFC Steering Team stated in a recent op-ed, “Projects like LCBC are crucial to reducing the impacts by the ‘new normal’ of fires.”

The Ninth Circuit made two main legal errors. First, the court went wrong by treating the Lost Creek-Boulder Creek project decision as binding management direction throughout the project planning area. To the contrary, the Forest Plan was not amended and is still in full effect. This misapprehension was the basis for the court's ruling under the National Forest Management Act. Once corrected, the key question is whether the activities authorized by the project decision are consistent with the governing Forest Plan. And they are.

Second, the court's direction to vacate the record of decision (ROD) is also erroneous. The court failed to address the correct factors governing vacatur, which are how serious the agency's errors are and the disruptive consequences of an interim change that may itself be changed. These factors weigh against vacatur of a project with multiple environmental, economic, and social benefits.

The Ninth Circuit has ordered the plaintiffs to file a response, which is a positive sign. If rehearing is granted in whole or in part, a decision could come as early as the end of 2018.

/Lawson Fite

BLM 2018 Timber Sale Wrap-up

The table below summarizes the Bureau of Land Management's (BLM) timber sale accomplishments for Fiscal Year 2018 in Western Oregon. The assigned target of 216 million board feet (MMBF) is a continuation of the agency's timber outputs over the past five years. The anomaly this year is the relatively low percentage of those desired outputs that successfully sold when advertised on the competitive market (see far-right column). The roughly 35 MMBF of advertised timber sales that went no bid is a concerning metric for AFRC given the apparent high demand for timber products in the region. For comparison, the Forest Service has sold

nearly 96% of their timber sale offered on the competitive market in western Oregon during the same period.

It is the BLM’s policy to sell timber sales at or above their appraised value. That appraised value is required by policy to be reflective of current market conditions as closely as possible to assure that the BLM receives a fair market value for forest products sold. In this context, the BLM defines fair market value as “the price which forest products will return when offered for competitive sale on the open market.”

AFRC hopes the BLM will be proactive in reassessing their appraisals for the 35 MMBF of timber not sold this year in order to generate timber sale values that more accurately represent fair market value. */Andy Geissler*

BLM						
FY-18 Target (MMBF)	216					
District	Assigned Target	Volume Offered	Volume Sold	No-bid Volume	% Target Offered	% Target Sold
Salem	58	51.3	43.7	7.6	88%	75%
Eugene	54	54.2	46.4	7.8	100%	86%
Roseburg	37	34.1	28.6	6.8	92%	77%
Coos bay	30	41.8	37.6	4.2	139%	125%
Medford	33	23.3	14.6	8.7	71%	44%
Lakeview	4	4.4	4.4	0	110%	110%
Total	216	209.1	175.3	35.1	97%	81%

Salvage Moving in Region 1

The Kootenai, Lolo, and Beaverhead-Deerlodge National Forests each experienced massive wildfires during the summer of 2017. Region 1 quickly addressed the salvage potential and set up a Post-Fire Response Team that reported directly to Regional Forester Leanne Marten. The team set parameters for quickly analyzing and executing salvage possibilities. A total of eight projects were identified, as well as small projects and fire deck sales using the roadside or 250-acre Categorical Exclusion tools.

The Kootenai and Lolo requested an Emergency Situation Determination (ESD) from the Chief of the Forest Service for all six of the larger fire salvage projects. The Chief granted the ESD’s which exempted the projects from the objection process and allowed project implementation to begin immediately after publication of the Decision Notice.

The Kootenai auctioned all of the Forest’s salvage projects and the Lolo will have all but two projects auctioned by the end of this fiscal year. The two remaining projects are from the Rice Ridge fire. The Beaverhead-Deerlodge will offer two salvage sales in November.

AFRC would like to thank Region 1 for its hard work in planning and implementing such a large salvage effort. Key people that drove the process are Regional Forester Leanne Marten; Christine Dawe, Director Renewable Resources Management; Carol McKenzie, Assistant Director Renewable Resource Management; Chris Savage, Kootenai Supervisor; Tim Garcia, Lolo Supervisor; and Melany Glossa, Beaverhead-Deerlodge Supervisor.

The final FY18 timber sale programs, including salvage, for the Kootenai and Lolo are below. /
Tom Partin

Forest	2018 Target	2018 Sold		
Kootenai	78.8	78.8		
<i>Sale Name</i>	<i>Sawlog</i>	<i>Biomass</i>	<i>Total Volume</i>	<i>Sold</i>
Burnt Caribou	4.7		4.7	4.7
Awarded TRL-fire repl.	6.0		6.0	6.0
West Pipe	7.7		7.7	7.7
Pipe Bull	17.9		17.9	17.9
Dirty Haines	1.3		1.3	1.3
Young Fork	5.1		5.1	5.1
Roadside Decks	5.0		5.0	5.0
Canada South	12.7		12.7	12.7
Up in Smoke	3.6		3.6	3.6
Moose Peak	0.8		0.8	0.8
Gibraltar	0.5		0.5	0.5
Tamarack	2.6		2.6	2.6
Highway Dickie	4.9	1.7	6.6	6.6
Elk Gem	2.0	0.5	2.5	2.5
Gateway	0.4	0.1	0.5	0.5
Overlook	1.0	0.3	1.3	1.3
Total	76.2	2.6	78.8	78.8

Forest	2018 Target	2018 Sold		
Lolo	68.6	42.1		
<i>Sale Name</i>	<i>Sawlog</i>	<i>Biomass</i>	<i>Total Volume</i>	<i>Sold</i>
Fire Line Decks	2.0		2.0	2.0
Marshal Grant Reoffer	0.8		0.8	0.8

Smoked Trout Salvage	10.6		10.6	10.6
Smokey Quartz Salvage	12.0		12.0	12.0
Black Sheep	8.4		8.4	8.4
Burnt Beam	14.6		14.6	14.6
Fish Fry	2.1		2.1	2.1
Liberty Salvage	1.7		1.7	1.7
Fried Morrell	1.7		1.7	1.7
Rice Crispy	3.7		3.7	
Dark Horse	5.0		5.0	
Left Mule	6.0		6.0	
Total	68.6	0.0	68.6	53.9

AFRC Comments on ESA Modernization Proposal

There have been no comprehensive amendments to the Endangered Species Act (ESA) since 1982, and no comprehensive revisions to the implementing regulations since 1986. On July 25, both the Fish & Wildlife Service (FWS) and NOAA Fisheries proposed revisions to three sections of regulations pertaining to the ESA: [Listing Species and Designating Critical Habitat](#) (ESA section 4), [Revision of Regulations for Prohibitions to Threatened Wildlife and Plants](#) (ESA section 4(d)), and [Interagency Cooperation](#) (ESA section 7). The Services primarily proposed the revisions to clarify existing rules and ensure they were consistently applied between the agencies.

On September 24, AFRC submitted [comments](#) concerning all three proposals. Altogether, AFRC submitted 41 comments. In our comments, AFRC primarily supported the changes as an effort to streamline the ESA permitting process and avoid further unnecessary red tape. In addition to generally supporting the proposed revisions, AFRC presented comments on a number of crucial issues to our industry. First, AFRC recommended language of the rules be altered or eliminated to avoid inappropriately expansive designations of critical habitat. Second, AFRC commented on the need to consider economic impacts during the implementation of the ESA, to the extent permitted by the Act. Third, AFRC addressed the importance of the proposed uniformity between the listing and delisting procedures. Fourth, AFRC provided recommendations for species-specific regulations concerning the northern spotted owl and the marbled murrelet. Last, AFRC submitted many comments on interagency cooperation with a focus on expediting the federal consultation process and providing more authority to individual forest managers. We urged the Services to consider issuing “counterpart” regulations that would allow forest biologists to make the determination whether a project is likely to adversely affect species or critical habitat.

All told, nearly 200,000 comments have been submitted by interested parties from all corners. The next step is finalizing the rules in the coming year. /Greg Hibbard

Christine Dawe Accepts Washington Office Position

Christine Dawe, Region 1 Director of Renewable Resources Management, has accepted the Director of Ecosystem Management Coordination (EMC) position in the Washington D.C. office. She will begin work on October 1. The EMC oversees agency activities related to NEPA, forest planning, and litigation among other programs.

Under Christine's leadership, Region 1 made great strides in ramping up the pace and scale of forest management by being creative with resources such as developing three NEPA strike teams to assist individual forests that didn't have the resources to complete projects. In addition to expediting NEPA, the Region has stressed treating larger landscapes, using tools such as GNA and Farm Bill CE's, and is working to develop projects aimed at reducing the threat of litigation. With those improvements, Region 1 believes its timber sale program will grow from 396 MMBF to 500 MMBF by 2021.

Christine fully realizes the link between forest health, maintaining industry infrastructure, and strong rural communities. In a note to the forest products industry partners announcing her new position she emphasized, "We cannot achieve our goal of healthy resilient forests without you."

AFRC and our members will miss Christine's leadership in Region 1, but we know she will carry on her tremendous work at EMC helping lead the agency's current internal effort to improve and streamline environmental analysis and decision-making processes – a critical initiative – with over 60 million acres at a high risk of catastrophic wildfire and in need of forest health treatments. */Travis Joseph*

Member Profile: Freres Lumber

AFRC is proud to highlight member company Freres Lumber this month.

Freres Lumber was recently recognized by [SEDCOR](#) as Manufacturer of the Year not only for its long history in Santiam Canyon, but also for the development and recent certification award of its patented [Mass Plywood Panel](#) (MPP).

In 2017, after a long and storied history of innovation (utilizing every single part of the logs they purchase and harvest to create everything from beauty bark to chips to plywood), Freres built and patented MPP, an engineered product designed specifically for commercial mass timber construction. Freres is one of only three companies in the US to receive certification under the Cross Laminated Timber (CLT) standard.

Studies show that using veneer as the material for a Mass Plywood Panel can achieve similar structural attributes of a CLT panel with potentially less wood. During a time when global climate change and carbon storage dominate public debate about forestry and forest products, the innovation of a unique product such as MPP– including reducing waste on site as well as improving site logistics – is an exciting prospect.

In its commitment to innovation and responsibility, Freres also utilizes steam to generate electricity which is delivered to the local utility, PacifiCorp, for the benefit of the surrounding area. The facility generates enough power to provide electricity to over 5,000 households. It is

operated as a true cogeneration facility: generating power through a condensing turbine while simultaneously providing heat for plant production processes.

AFRC is proud to have Freres Lumber as a member and share its commitment to innovation, community responsibility, and the health and sustainability of public lands. */Asha Aiello*

Pacific Logging Congress

The Pacific Logging Congress Live in Woods Show took place at the Oregon State University's McDonald-Dunn Forest September 13-15. The show was designed to equip forestry professionals with continuing education credits and provide an educational experience for thousands of high school students. Instead of classroom knowledge, students were given tours of different types of logging operations, harvesting, and drone work. Forestry professionals were shown and trained in new machinery, tree stand management, and thinning considerations.

The show highlighted three different logging systems: tethered (cable assist), cut-to-length, and whole tree, as well as equipment for other wood processing, grinding, and chipping. Each area featured three main demonstrations, which allowed for a first-hand experience in logging operations and updated technique and machinery information for loggers and forestry professionals.

To help further develop the forestry workforce, the public figure "Logger Girl" provided educational seminars for students about careers in the forest products industry, while forestry professionals attended seminars about innovative technology and forest management strategies.

Overall, the show was a success and Oregon State University was able to complete a few harvest units. AFRC and Healthy Forests, Healthy Communities was proud to participate in this educational and engaging event. */Amanda Astor*

AFRC Welcomes Law Clerk Greg Hibbard

Please join us in welcoming Greg Hibbard as a law clerk to the AFRC Legal Program. He will be assisting Cindi, Sara, and Lawson in providing legal services to our members and has already pitched in on AFRC's comments on ESA regulatory reform.

Greg is a 2018 graduate of the University of Washington law school (Go Huskies!) and is currently studying for an LL.M. (master of laws) degree at Lewis & Clark. He will begin a judicial clerkship on the Oregon Court of Appeals in the summer of 2019. At UW, Greg was the Managing Editor of the Washington Journal of Environmental Law and Policy and participated in the Environmental Law and Policy Clinic. He previously worked for a number of organizations, including the Washington Attorney General's office. Greg holds degrees (*summa cum laude*) in economics and geosciences from Pacific Lutheran University, where he played safety for the PLU Lutes football team. Welcome, Greg! */Lawson Fite*